



August 3, 2001

Mr. Vic Ramirez  
Associate General Counsel  
Lower Colorado River Authority  
P.O. Box 220  
Austin, Texas 78767-0220

OR2001-3381

Dear Mr. Ramirez:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 150265.

The Lower Colorado River Authority (the "LCRA") received a request for four categories of information relating to asbestos, pump stations, and pump contactor cabinets and equipment. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.107(1) of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Although you claim that section 552.101 applies to the submitted information, you do not explain why. Conclusory assertions that a particular exception applies to requested information will not suffice. If the LCRA does not establish how and why an exception applies to the requested information, this office has no basis on which to pronounce it protected. Open Records Decision No. 363 (1983). Therefore, we will not address your claim under section 552.101.

You contend that Exhibit B and a portion of Exhibit C are excepted from disclosure under section 552.107. Section 552.107(1) excepts information that an attorney cannot disclose because of a duty to his client. In Open Records Decision No. 574 (1990), this office concluded that section 552.107 excepts from public disclosure only "privileged information," that is, information that reflects either confidential communications from the client to the attorney or the attorney's legal advice or opinions; it does not apply to all client information

held by a governmental body's attorney. Open Records Decision No. 574 at 5 (1990). Basically factual communications from attorney to client, or between attorneys representing the client, are not protected. *See* Open Records Decision Nos. 556 (1990); 462 (1987). Section 552.107(1) does not except from disclosure factual recounting of events or the documentation of calls made, meetings attended, and memos sent. Open Records Decision No. 574 at 5 (1990). Based upon our review of the submitted records, we find that the information contained in Exhibit B contains no legal advice or opinion but consists of basically factual communications between attorneys, which is not confidential and must be released. The marked information in Exhibit C consists of legal advice or opinion, and may be withheld pursuant to section 552.107(1). The remainder of the information in Exhibit C must be released.

You inform us that the documents contained in Exhibit D contain information that is both responsive and nonresponsive to the request. You have marked the information you claim is nonresponsive, which the LCRA intends to withhold. Because you have determined that the information is nonresponsive, we do not address the required public disclosure of such information in this ruling.<sup>1</sup>

In summary, the marked information in Exhibit C may be withheld pursuant to section 552.107(1). The remainder of the responsive information must be released to the requestor.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the

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<sup>1</sup>The Act requires the LCRA to release only information that is responsive to the record request. Thus, you may redact any information not responsive to the request for information.

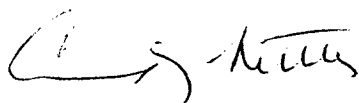
governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/seg

Ref: ID# 150265

Enc. Submitted documents

c: Mr. Larry Brooks  
217 FM 3171  
Schulenberg, Texas 78956  
(w/o enclosures)